



U.S. Department
of Transportation

Federal Aviation
Administration

DEPT. OF TRANSPORTATION
DOCKETS

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Office of Regional Counsel
901 Locust, Room 506
Kansas City, MO 64106-2641

In Reply Refer To: ACE-7

Area Code: 816-329-3765

CERTIFIED

March 25, 2008

Hearing Docket
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591

Attn: Hearing Docket Clerk, AGC-430
Wilbur Wright Building, Suite 2W1000

Re: In the Matter of New Mexico Flying Eagle, Inc., d/b/a Arizona Aero-Tech
Case No. 2007WP070063 /CP08WP0007/ FAA 2008-0381

Enclosed herewith please find a copy of a request for a hearing and the original and one copy of the Complaint in the above-referenced proceeding.

The FAA requests that the hearing in this matter be held in Phoenix, Arizona, and expects that the hearing will last one day.

Please address all communications for the FAA to Mark G. Camacho, Federal Aviation Administration, Central Region, ACE-7, Room 506, DOT Building, 901 Locust, Kansas City, MO 64106-2641.

Sincerely,

John W. Escott
Regional Counsel

By:

Mark G. Camacho
Attorney

Enclosures

cc: Mr. Timothy M. Amalong
Timothy I. McCulloch, Esq.

RECEIVED
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HEARING DOCKET

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

In the Matter of:

New Mexico Flying Eagle, Inc.
d/b/a Arizona Aero-Tech

Served: March 25, 2008
FAA Docket No.
FAA Case No. 2007WP07063
Judge Not Assigned

COMPLAINT

The Federal Aviation Administration (FAA), by counsel, hereby files its Complaint, pursuant to Rule 208 of the Rules of Practice (14 C.F.R. 13.208), and states as follows:

I.

1. On November 15, 2007, Respondent New Mexico Flying Eagle, Inc. d/b/a Arizona Aero-Tech was advised through a Notice of Proposed Civil Penalty that the FAA proposed to assess a civil penalty in the amount of \$33,000. On March 18, 2008, Respondent submitted a written request for a hearing.

II.

1. New Mexico Flying Eagle, Inc., d/b/a Arizona Aero-Tech is, and at all times mentioned herein was the holder of Pilot School Certificate No. X26S789K, with private pilot course, commercial pilot course, instrument rating course, flight instructor course and flight instrument course ratings.

2. At all times relevant herein, Civil Registration No. N80817, a Cessna model 172M aircraft, and Civil Registration No. N404SW, a Cessna model 172I aircraft, were operated by New Mexico Flying Eagle, Inc., d/b/a Arizona Aero-Tech.

3. Between May 21, 2007, and May 31, 2007, N80817 and N404SW were operated on eleven (11) flights by New Mexico Flying Eagle, Inc.

4. On May 21, 2007, N80817 was unairworthy in that the barrier between the cargo compartment and inside the tail section of aircraft was not in place.

5. On May 21, 2007, N404SW was also unairworthy in that the cargo compartment aft barrier between the cargo compartment and inside the tail section of the aircraft was not secure to the aircraft.

6. Subsequent to May 21, 2007, maintenance was performed on N80817 and N404SW in that speed tape was used to repair the damage listed above in paragraphs 4 and 5.

7. Using speed tape in the performance of maintenance is not an approved method, technique, and practice prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other method, technique, and practice acceptable to the Administrator.

8. Therefore, the damage referenced in paragraphs 4 and 5 above, and subsequent speed tape repairs performed on N80817 and N404SW rendered both aircraft unairworthy.

III.

1. By reason of the foregoing facts and circumstances, Respondent violated Section 91.7(a), which states no person may operate a civil aircraft unless it is in an airworthy condition.

2. Pursuant to Title 49 U.S.C. 46301(a)(5)(A), Respondent is subject to a civil penalty not to exceed \$11,000 for each of the violations alleged.

3. Under the facts and circumstances of this case, a civil penalty of \$33,000 is appropriate.

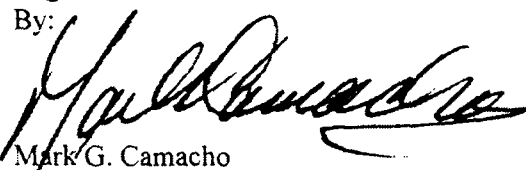
WHEREFORE, the Agency, by counsel, respectfully requests that the Administrative Law Judge enter an order that Respondent be assessed a civil penalty in the amount of \$33,000.

Dated this 25th day of March, 2008.

Respectfully submitted,

John W. Escott
Regional Counsel

By:



Mark G. Camacho
Attorney for Complainant
Federal Aviation Administration
901 Locust St., Room 506
Kansas City, MO 64106-2641
816-329-3765; Fax (816) 329-3771

Answer

Section 13.209(a) of the Rules of Practice in FAA Civil Penalty Proceedings states, "A respondent shall file a written answer to the complaint, or may file a written motion pursuant to Section 13.208(d) or Section 13.218(f)(1-4) instead of filing an answer, not later than 30 days after service of the complaint.

Section 13.209(f) states, "A person's failure to file an answer without good cause shall be deemed an admission of the truth of each allegation contained in the complaint.

New Mexico Flying Eagle, Inc. d/b/a Arizona Aero-Tech, FAA Case No. 2007WP07063

CERTIFICATE OF SERVICE

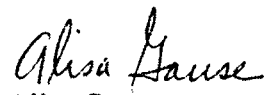
I hereby certify that I have this date placed in the United States mail, certified, return receipt requested, a copy of the Administrator's Complaint, addressed to:

Mr. Timothy M. Amalong, President
New Mexico Flying Eagle, Inc.
d/b/a Arizona Aero-Tech
6971 S. Apron Drive
Tucson, AZ 85706

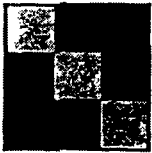
Timothy I. McCulloch, Esq.
Baird Williams & Greer, LLP
6225 N. 24th Street, Suite 125
Phoenix, AZ 85016

In addition, I hereby certify that I have this date placed in the United States mail, certified, return receipt requested, the original and one copy, addressed to:

Federal Aviation Administration
800 Independence Avenue, SW.
Washington, DC 20591
Attention: Hearing Docket Clerk, AGC-430
Wilbur Wright Building, Suite 2W1000


Alisa Gause
Paralegal Specialist

Dated this 25th day of March, 2008.



BAIRD WILLIAMS
& GREER LLP

Attorneys at Law

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Timothy I. McCulloch
Tmcculloch@bwglaw.net

March 18, 2008

VIA FEDERAL EXPRESS

Federal Aviation Administration
Attn: Hearing Docket Clerk, AGC-430
600 Independence Avenue S.W.
Wilbur Wright Building, Ste. 2W1000
Washington, D.C. 20591

Re: 2007WP070063
ACE-7

Gentleperson:

This law firm represents New Mexico Flying Eagle, Inc., d/b/a Arizona Aero-Tech. We ask that all correspondence be sent to this office. This letter shall serve as the request for hearing in the matter of 2007WP070063 as required by 14 C.F.R. §13.6(h). The final notice of proposed civil penalty was received on March 17, 2008, and a copy is enclosed herein.

Very truly yours,



Timothy McCulloch

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Enclosure

cc: John W. Escott, Regional Counsel
La Trice Flucas, Office of Regional Counsel
Mark G. Camacho, Attorney